



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/908,453	08/07/97	RUVKUN	G 08472/704002

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HM22/1204

EXAMINER

SHUKLA, R

ART UNIT

PAPER NUMBER

1632

21

DATE MAILED:

12/04/00

**Pleas find below and/or attached an Office communication concerning this application or
pr ceeding.**

Commissioner of Patents and Trademarks

Advisory Action

Application No.

08/908,453

Applicant(s)

RUVKUN ET AL.

Examiner

Ram R Shukla

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 November 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 09 November 2000. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

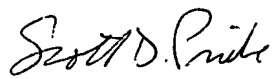
4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☒ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☐ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☒ Other: See Continuation Sheet

Continuation of 3. NOTE: Amendments to claims 15 and 16 raise new 112 2nd para issues. Amendments to claim 29 raise new issues of enablement and utility of the claimed polynucleotide.

Continuation of 6. does NOT place the application in condition for allowance because: the nature article referred to in the arguments does not show that age-1 polypeptide of the instant application has a PI-3 kinase activity. Furthermore, according to the article, the PI-3 kinase has three different subunits, alpha, beta, and gamma which have different regulators and therefore would have different mechanism of function. The protein encoded by the instantly claimed polynucleotide has different probability of alignment with these subunits. However, which of these subunits does it correspond to? The article by Babar et al also does not indicate that AGE-1 of the instant application is a PI-3 kinase.

Continuation of 11. Other:

Applicants' amendments do not obviate the written description and enablement issues, rather raise new 112 1st issues. Applicants' arguments as applicable to originally presented claims have been considered, however they are not deemed persuasive.


SCOTT D. PRIEBE, PH.D
PRIMARY EXAMINER